IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9705 of 1993

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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G.S.R.T.C. - Petitioner(s)

Versus

JETHA SAUDAS SAUMAYA - Respondent(s)

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Appearance :

MR HS MUNSHAW for Petitioner No(s).: 1.

MR MUKESH H RATHOD for Respondent No(s).: 1.

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CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 01/07/2005

ORAL JUDGMENT

1. This petition is directed against the order dated 6th April, 1993 passed by the Labour Court, Junagadh in Reference [L.C.J.] No. 1357 of 1990 whereby the Labour Court has directed the petitioner Corporation to reinstate the respondent workman with continuity in service but

without back wages and further imposed a minor penalty of stoppage of two increments with future effect.

2. The short facts of the case are that the respondent workman was working as a Conductor in Porbandar Depot of Junagadh. On 18th February, 1988 while the respondent was on duty, the bus was checked by the checking squad of the petitioner Corporation. The checking squad found certain irregularities in the issuance of tickets and in the collection of fares from the passengers. Therefore, charge sheet was issued and departmental inquiry was held against the respondent workman. Since the charges against the respondent workman were proved, he was dismissed from the service w.e.f. 3rd April, 1989.

2.1. Being aggrieved by the said order, the respondent workman instead of approaching the appellate authority of the petitioner Corporation raised an industrial dispute which was ultimately referred to the Labour Court, Junagadh for adjudication. The Labour Court while considering the case of merits, partly allowed the Reference with the aforesaid directions. Hence, this petition.

3. Mr. Munshaw learned advocate for the petitioner Corporation has contended that the Labour Court has erred in appreciating the past record of the respondent workman. He has submitted that on twelve earlier occasions, the respondent workman had committed defaults for which

appropriate penalties were imposed and in spite of that the respondent workman had continued with his mis conduct. He has, therefore, submitted that the Labour Court has erred in setting aside the order of dismissal passed by the petitioner Corporation.

4. I have heard the learned counsel for the respective parties and have perused the documents placed on record. It is not in dispute that the past record of the respondent workman is not good. The respondent had committed several irregularities and the same were also proved in the departmental inquiry alleged against him. However, the Labour Court, while exercising powers under Section 11A of the Industrial Disputes Act, 1947 has granted reinstatement with continuity in service and a penalty of stoppage of two increments with future effect was imposed on the respondent workman. I am in complete agreement with the reasonings adopted by and the findings arrived at by the Labour Court.

5. In above view of the matter, the petition is dismissed. The impugned order of the Labour Court is confirmed. The petitioner Corporation is directed to reinstate the respondent workman and shall pay all the benefits accruing from the grant of continuity of service from the date of publication of the award till the payment is realized. The said exercise to be completed within a period of two months from the date of receipt of writ of this order. Rule is discharged with no order as to costs.

Interim relief if any, stands vacated.

[K.S. JHAVERI, J.]

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